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Attorneys for Defendant  
SMITH'S FOOD & DRUG CENTERS, INC.

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

OSCAR POLIDORO,

Plaintiff,

vs.

SMITH'S FOOD & DRUG CENTERS, INC.,  
a foreign corporation; and DOES I-V and ROE  
CORPORATIONS I-V,

Defendants.

Case No. 2:21-cv-02156-JCM-DJA

**STIPULATION TO REMAND CASE TO  
STATE COURT**

WHEREAS, Plaintiff OSCAR POLIDORO and his counsel of record ALLEN A. CAP of the law firm CAP & KUDLER have agreed to cap the damages recoverable by Plaintiff in this litigation of \$75,000.00 for all claims arising out of the incident at SMITH'S on December 8, 2020;

IT IS HEREBY STIPULATION AND AGREED by and between Plaintiff OSCAR POLIDORO by and through his counsel of record, ALLEN A. CAP, ESQ. of the law firm CAP & KUDLER, and SMITH'S FOOD & DRUG CENTERS, INC. by and through its counsel of record, JERRY S. BUSBY, ESQ. of the law firm COOPER LEVENSON P.A. as follows:

1. That the damages in this case be limited to the maximum amount of \$75,000.00 on all claims; and
2. That this case be remanded to the Eighth Judicial District Court for the State of Nevada where the parties have agreed to have a neutral arbitrator appointed from JAMS, AMR, or some other neutral arbitrator agreed upon by all counsel to conduct a binding arbitration of this case.

IT IS FURTHER STIPULATED AND AGREED that in the event additional defendants are added to this litigation, the cap of \$75,000.00 will still limit the damages available to Plaintiff; however, if any defendant added hereinafter to this litigation successfully removes this case to federal court, then the agreement to submit this case to binding arbitration will become void and this matter will proceed to trial where the cap of \$75,000.00 will no longer apply and Plaintiff will be able to seek a jury award of any amount.

Respectfully submitted this 25th day of January, 2022.

CAP & KUDLER

COOPER LEVENSON, P.A.

/s/ Allen A. Cap

/s/Jerry S. Busby

ALLEN A. CAP, ESQ.

JERRY S. BUSBY, ESQ.

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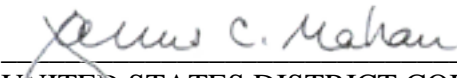
OSCAR POLIDORO

SMITH'S FOOD & DRUG CENTERS, INC.

### **ORDER REMANDING CASE TO STATE COURT**

Pursuant to the stipulation set forth above, it is hereby ordered that the above-captioned case is remanded to Nevada's Eighth Judicial District Court for the reasons addressed in this stipulation, with the parties to bear their own costs and attorneys' fees.

IT IS SO ORDERED:

  
UNITED STATES DISTRICT COURT JUDGE  
DATED: January 28, 2022